THE HON'BLE SRI JUSTICE C.V.RAMULU

WRIT PETITION NO.6327 OF 2003

Date: 26th October 2006

Between:

1. Mylavarapu Suryanarayana, s/o Balakrishnaiah,
   aged56, R/o Rangasaipuram village,
   Chimakurthy Mandal, Prakasam District
   and 4 others.

.... Petitioners.

And

1. The Prakasam District Co-Operative Central Bank,
   Ongole, rep. by its General Manager,
   Prakasam District and 2 others.

.... Respondents.

* * *

ORDER:

This writ petition is filed when the properties of the petitioners were sought to be auctioned in public auction on 17.4.2003 under the auction notice dated 14.3.2003.

2. According to the petitioners, they are all joint family members and the first petitioner is the head of the family. Without issuing any notice of any kind to anyone of these petitioners either for payment of loan taken by the first petitioner or other petitioners individually or collectively, the impugned notice was issued. No enquiry as required under Section 71 of the A.P. Cooperative Societies Act or any other law for the time being was conducted.

Therefore, issuing of this impugned auction notice is arbitrary and illegal.

3. The respondents, though filed a detailed counter denying the allegations made by the petitioners and further asserting that an enquiry under Section 71 of the A.P. Cooperative Societies Act, was conducted by issuing notices, neither the number of file, date of proceedings or dates on which notices were sent to the petitioners were mentioned. Under those circumstances, I am of the opinion that without there being a proper proceedings and certificate issued under Section 71 of the Act after conducting due enquiry, issuance of impugned notice is unwarranted. Therefore, the same is declared as null and void.

4. The writ petition is accordingly allowed and the notice impugned is set aside. However, this will not preclude the authorities from taking up proceedings as available under law for the purpose of recovering the arrears of loan against the petitioners-loanees. No costs.

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C.V.RAMULU, J.

Date: 26th October 2006.
BSB